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AN ACT

RELATING TO AGRICULTURE; AMENDING SECTIONS OF THE ORGANIC  
COMMODITY ACT TO COMPLY WITH FEDERAL REGULATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 76-22-5 NMSA 1978 (being Laws 1990,  
Chapter 122, Section 5) is amended to read:

"76-22-5. ORGANIC MARKET DEVELOPMENT FUND CREATED.--  
There is created in the state treasury the "organic market  
development fund". No money appropriated to this fund or  
accruing to it through cooperative research agreements,  
gifts, grants, bequests, including bequests from a private,  
public, nonprofit or any other source, advertising, fees from  
conferences or workshops, civil penalties, sales of  
promotional items or educational materials, speaker fees,  
agricultural input approval fees, handbooks, grant  
administrative costs or any other sources, shall be  
transferred to another fund or encumbered or disbursed in any  
manner except for activities conducted pursuant to the  
Organic Commodity Act. The fund shall not revert at the end  
of any fiscal year. All interest earned on the fund shall  
remain in the fund. Disbursements from the fund shall be  
made only upon warrant drawn by the secretary of finance and  
administration pursuant to vouchers signed by the chairman of  
the commission or his designee for the purpose of paying the

1 cost of the commission's activities conducted pursuant to the  
2 Organic Commodity Act."

3 Section 2. Section 76-22-6 NMSA 1978 (being Laws 1990,  
4 Chapter 122, Section 6, as amended) is amended to read:

5 "76-22-6. ORGANIC COMMODITY COMMISSION CREATED.--

6 A. There is created the "organic commodity  
7 commission" to achieve the purposes set forth in Section  
8 76-22-2 NMSA 1978.

9 B. The commission shall be composed of five  
10 members appointed by the governor with the advice and consent  
11 of the senate.

12 C. The commission shall elect one of its members  
13 to serve as chairman, one to serve as vice chairman, one to  
14 serve as secretary and one to serve as ombudsman. A majority  
15 of the members of the commission constitutes a quorum for the  
16 transaction of business.

17 D. All commission members shall be residents of  
18 New Mexico, and, if a commissioner is certified by the  
19 commission, that commissioner shall also be certified by  
20 another certifying agent.

21 E. The commission shall be appointed by the  
22 governor. The commission members shall serve staggered terms  
23 of four years with a minimum term of two years.

24 F. Members of the commission shall be compensated  
25 as provided in the Per Diem and Mileage Act, but shall

1 receive no other compensation, perquisite or allowance."

2 Section 3. Section 76-22-14.1 NMSA 1978 (being Laws  
3 2001, Chapter 157, Section 5) is amended to read:

4 "76-22-14.1. CERTIFYING AGENTS--REPORTS TO  
5 COMMISSION.--A certifying agent, other than the commission,  
6 that certifies any food article in New Mexico as being  
7 organically produced shall:

8 A. simultaneous with its issuance, report to the  
9 commission any information regarding denials of  
10 certification, notifications of noncompliance, notifications  
11 of noncompliance correction, notifications of proposed  
12 suspension or revocation and notifications of suspension or  
13 revocation sent to any person in New Mexico;

14 B. on January 2 of each year, submit to the  
15 commission a list, including the name, address and telephone  
16 number of each operation granted certification in New Mexico  
17 during the preceding year; and

18 C. pay an annual fee to the commission that shall  
19 reasonably reflect the cost of enforcing the Organic  
20 Commodity Act with respect to that certifying agent."

21 Section 4. Section 76-22-16 NMSA 1978 (being Laws 1990,  
22 Chapter 122, Section 16, as amended) is amended to read:

23 "76-22-16. LEVY OF ASSESSMENT--ORGANICALLY PRODUCED  
24 FOOD ARTICLES--SALES.--

25 A. The commission may impose and collect

1 assessments as follows:

2 (1) producers and handlers shall be assessed  
3 at an annual rate not to exceed one-half percent of the total  
4 gross sales of the organically produced food articles;

5 (2) certified handling operations may be  
6 assessed at an annual rate of one-fourth percent of the total  
7 price of the services; and

8 (3) purveyors of materials as set forth in  
9 the federal materials list shall be registered with the  
10 commission and assessed at an annual rate not to exceed  
11 one-half percent of the total gross sales of the class of  
12 materials appearing on that list.

13 B. The commission, following notice and comment,  
14 may adjust the assessment rate up or down by no more than one  
15 hundred percent."

16 Section 5. Section 76-22-22 NMSA 1978 (being Laws 1990,  
17 Chapter 122, Section 22) is amended to read:

18 "76-22-22. STATE ORGANIC CHEMIST--DUTIES.--The  
19 commission may designate a "state organic chemist". The  
20 state organic chemist shall hold a doctoral degree in  
21 chemistry or a related field and shall be knowledgeable and  
22 experienced in the techniques used for testing soil and plant  
23 and animal tissue for pesticide and fertilizer residues. The  
24 chemist may be an employee of a private laboratory or an  
25 employee of an agency of the state. The chemist shall

